



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,402	12/15/2005	Roy Neville Mann	101443.0001US1	6547

34284 7590 10/31/2006

ROBERT D. FISH
RUTAN & TUCKER LLP
611 ANTON BLVD 14TH FLOOR
COSTA MESA, CA 92626-1931

EXAMINER

MENEZES, MARCUS

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/561,402

Applicant(s)

MANN, ROY NEVILLE

Examiner

Marcus Menezes

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-9,12-16 and 25 is/are pending in the application.
- 4a) Of the above claim(s) 17-24 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-9,12-16 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- Examiner acknowledges that claims 2,3,10,11,27 and 28 have been cancelled.
- Examiner acknowledges that claims 5-8 and 13-26 have been properly amended to overcome improper multiple dependent issues.

Election/Restrictions

1. Newly submitted claims 17-24 and 26 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: multiple structural parts are secured together, forming a device distinct from that claimed in independent claims 1 and 9.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 17-24 and 26 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Objections

2. Claims 5,13,15-17,22 and 25 are objected to because of the following informalities: each claim recites "any one of" in the first line of the claim. Examiner suggests deleting these words. Appropriate correction is required.

Claim Rejections - 35 USC § 102

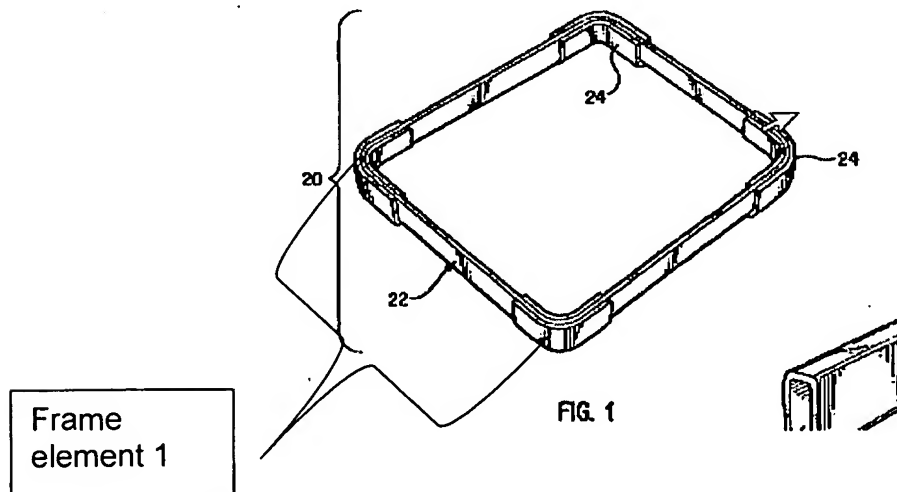
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,5-7,9 and 13-15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Zheng (US 6,267,129).

Zheng discloses a structural part, which includes a rectangular frame formed of four elongate, resiliently flexible frame elements connected together at their ends by connector pieces (24) that form the corners of the frame, and a flexible sheet element (62) that is securely located on the frame and that spans the frame, the resiliently flexible configuration of the frame elements being such that the structural part is collapsible by performing a manual twisting and folding operation on the frame to thereby provide a compact storage configuration of the structural part. (See below and Figs. 1, 2, 4A, 11 and col.2, lines 39-62 and col. 3, lines 7-19).



Art Unit: 3677

Also disclosed is that the frame includes at least one elongate reinforcing element (76) that extends across a pair of opposite, parallel frame elements. Note, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. (See Fig. 6). Also disclosed is that said flexible sheet element is formed of one of a natural fabric material, a synthetic fabric material, and a synthetic plastics material. (See col. 4, lines 1-12).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zeng in view of Wong (US 6,199,229).

Zeng discloses the invention, except for the frame elements being formed of carbon fiber reinforced material.

Wong teaches of a similar invention that has frame elements constructed of carbon fiber material. (See Fig. 1, and Abstract and col. 4, line 1).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the teaching of the carbon fiber frame

Art Unit: 3677

elements in Zeng in view of Wong in order to instill high fatigue strength, high moisture absorbance, non-corrosiveness, and high general strength in said frame elements.

7. Claims 8, 16 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zeng.

Zeng discloses the invention, except for printed display matter on said flexible sheet. It would have been an obvious matter of design choice to have placed printed display matter on the flexible sheet element, since it appears that the invention would perform equally well with or without the printed matter.

Response to Arguments

8. Applicant's arguments with respect to claims 1 and 9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

Art Unit: 3677

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Menezes whose telephone number is 571-272-6284. The examiner can normally be reached on 8:00am - 5:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marcus Menezes
Examiner
Art Unit 3677

MM


ROBERT J. SANDY
PRIMARY EXAMINER